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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

TRMB-1470

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on Feb 26, 2007

Signature

Typed or printed name

Mary Elias

Application Number

10/799,012

Filed

03/11/2004

First Named Inventor

Martin BRINGUEL

Art Unit

3661

Examiner

Arthur Jeanglaud, G.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 35,398

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action dated November 27, 2006, Applicants respectfully request a review of the final rejection in the above-identified application. Claims 10-14, 16-17, 19-35 are rejected under 35 U.S.C. §102 (b) as being anticipated by Stone (5,282,114). Applicants respectfully submit that the Examiner's rejection of the Claims is improper as the rejection of Claims 10-14, 16-17, 19-35 does not satisfy the requirements of a *prima facie* case of anticipation as claim limitations are not met by the cited reference. Furthermore, Claims 15 and 18 are rejected under 35 U.S.C. §103 (a) as being unpatentable over Stone in view of Lacy et al. (20050190056). Applicants respectfully submit that the Examiner's rejection of the Claims is improper as the rejection of Claims 15 and 18 does not satisfy the requirements of a *prima facie* case of anticipation as claim limitations are not met by the cited reference.

While only certain arguments are addressed in these Remarks, this should not be construed that Applicants agree with the other arguments presented in the Final Office Action.

REJECTION DOES NOT SATISFY REQUIREMENTS OF A *PRIMA FACIE* CASE OF
ANTICIPATION

According to the Federal Circuit, "[a]nticipation requires the disclosure in a single prior art reference of each claim under consideration" (W.L. Gore & Assocs. v. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983); see also MPEP 2131). However, it is not sufficient that the reference recite all the claimed elements. As stated by the Federal Circuit, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." /Verdegaal Bros. v. Union Oil Co. of California/, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.

1987); see also MPEP 2131. In other words “[t]he identical invention must be shown in as complete detail as is contained in the ...claim” (emphasis added; Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); see also MPEP 2131).

CLAIM LIMITATIONS ARE NOT MET BY THE CITED REFERENCE

With respect to Independent Claim 10 (Claims 21 and 29 include similar features), Applicants respectfully state that Claim 10 includes Stone does not teach or suggest the claimed embodiments in the manner set forth in independent Claims 10, 21 and 29. More specifically, Stone does not teach or suggest the feature “a support member operative to resist flexure; an electronics assembly comprising a frequency reference; a plurality of wire rope isolators coupling said support member to an enclosure; and wherein said support member is rigidly coupled to that portion of said electronics assembly comprising said frequency reference.” Support for the Claimed feature can be found throughout the Figures and Specification including Figures 1 and 4 and page 10 line 24- page 11 line 10.

Applicants have reviewed the Stone reference including the cited section provided by the Examiner (column 7, lines 29-57) and do not understand Stone to anticipate a frequency reference.

Specifically, on page 2 of the Office Action and again in the remarks section on page 4 of the present Office Action, the Examiner contrasts the claimed feature of a frequency reference with the electromagnetic /radio frequency interference filter of Stone. However, this comparison is incorrect.

In accordance with MPEP 2111.01, it is recognized that that, although the claims are read in light of the specification, limitations appearing in the specification are not read into the claims. However, it is also recognized that the claims are read as one of ordinary skill in the art would read them. Furthermore, it is recognized that an Applicant can be his or her own lexicographer, as long as the meaning of a term is not repugnant to the usual meaning of the term. Moreover, if extrinsic reference sources evidence more than one definition for the term, the intrinsic record (e.g., the disclosure of the instant application) must be consulted to identify which of the different possible definitions is most consistent with Applicants' use of the term – where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings.

It is respectfully submitted that “frequency reference” has an ordinary meaning in the art, and that meaning is consistent with the meaning provided on page 2 lines 23-page 3 lines 6) of the instant application. That is, as defined in the art as well as in the instant application for example, “[r]adio frequency receivers, e.g., a global positioning system receiver, typically require a highly precise and stable frequency reference. In most cases, a quartz crystal is utilized in such applications as it has desirable precision and stability characteristics” (emphasis added).

Thus, Applicant respectfully submits the “frequency reference” words of the claim must be given their plain meaning. In other words, they must be read as they would be interpreted by those of ordinary skill in the art. In re Sneed, 710 F.2d 1544, 218 USPQ 385 (Fed. Cir. 1983). Moreover, the frequency reference terminology is clearly defined in the Specification and the Figures including Figure 1 and the Specification on page 10 lines 3 through page 11 line 8. “Frequency reference 160 is a critical component for the

function of shock resistant device 100. In most cases, a quartz crystal is utilized in such applications as it has desirable precision and stability characteristics. It is appreciated that quartz crystals rely upon resonant mechanical movements of the crystal to achieve electrical oscillations due to the piezo-electric effect. Severe shock and vibration environments can easily upset the motions of a crystal frequency reference, resulting in deleterious frequency changes or breakage, rendering the receiver inoperative. For example, shock and vibration can cause harmful phase noise in frequency reference 160, resulting in functional failures of a radio receiver” (emphasis added)

In contrast, at column 7, lines 29-57 of Stone, “The hollow interior of front panel 22 contains an electromagnetic/radio frequency interference filter (not shown) and a woven, loose, air filter 118. These filters extend across the entire opening of the panel cavity to be sure that all cooling air passes through both filters... [T]he fans are mounted on the interior of the panel 124 via screws, such as 134, and EMI/RFI filter assemblies 67A and 67B are mounted over the fans 66A and 66B respectively by means of blind threaded inserts that pass through the panel 124 and are bolted inside...”

Thus, Applicants respectfully submit that the present Office Action incorrectly identifies an EMI/RF filter as a frequency reference. That is, Applicants respectfully submits that the frequency reference as claimed is not an EMI/RFI filter (emphasis added).

For this reason, Applicants respectfully state that the Claimed features “a support member operative to resist flexure; an electronics assembly comprising a frequency reference; a plurality of wire rope isolators coupling said support member to an enclosure; and wherein said support member is rigidly coupled to that portion of said

electronics assembly comprising said frequency reference” as Claimed in Claim 10 (and similarly in Claims 21 and 29) are not anticipated by Stone (emphasis added).

As such, Applicants respectfully state that Claims 10-14, 16-17, 19-35 are not anticipated by Stone, since each and every element as set forth in the claim is not found, either expressly or inherently described, in Stone (emphasis added).

In summary, Applicants respectfully submit that the Examiner’s rejections of the Claims are improper as the rejection of Claims 10-14, 16-17, 19-35 does not satisfy the requirements of a *prima facie* case of anticipation as claim limitations are not met by the cited reference. Accordingly, Applicants respectfully submit that the rejection of Claims 10-14, 16-17, 19-35 under 35 U.S.C. §102(b) is improper and should be reversed.

Claims 15 and 18

The Examiner rejected Claims 15 and 18 under 35 USC 103(a) as being unpatentable over Stone in view of Lacy et al. (20050190056).

Applicants respectfully state that Claims 15 and 18 are dependent from an allowable Independent Claim 10. Therefore, Claims 15 and 18, are also in condition for allowance as being dependent on an allowable base Claim and reciting further features of the present claimed invention.